

SubCommittee on Ports Report and Recommendation for AIM Zones

Introduction & General Notes of Subcommittee Proceedings

The Subcommittee on Ports met on January 24, 2018, at 8:00 A.M. and all members of the subcommittee were present. The committee received testimony from representatives of the Missouri Department of Transportation (MODOT), the Port Authority of Kansas City, the Department of Economic Development (DED), the Department of Revenue (DOR) and the Missouri Treasurer's Office. General testimony on port funding including the implementation of AIM zones allowed under SB 861 (2016) was given and the committee proceeded to question the port authority, the department of economic development, and the office of the treasurer about issues involving funding redistribution for monies raised by the port authority from rental fees for new construction in the authority's AIM zone. SB 861 (2016) and section 68.075, RSMo, allow port authorities to develop infrastructure within a zone and then receive funding from the Port Authority Aim Zone Fund consisting of fifty percent of the state withholding tax from new jobs created within the zone for use by the port authority.

Counsel for the Kansas City Port Authority indicated that there may be an issue with rental agreements not drafted in the right manner or containing the correct clauses to take advantage of SB 861 (2016) and other regulations allowing reimbursement for construction projects and other revenue generating activities in AIM zones. DED indicated that it was not in receipt of any verified new job creation reports from the authority at this time. DED also indicated that current law required it to certify new job creation in AIM zones and to pass this information along to DOR. DOR indicated that it was not currently in receipt of any new job creation reports from DED and, therefore, that any account involving port funding would have a zero balance and show no activity. The office of the Treasurer indicated that any distribution of funds for use by a port authority would require the usual three step process for fund distribution which is:

- (1) The requirement to have a non-zero balance or positive cash flow in an account;
- (2) The requirement to have proper budgetary authority in an appropriations act to release the funds; and
- (3) The requirement that the Office of Administration provide a warrant authorizing the release of funds in accordance with general law.

The DED, DOR, and office of the Treasurer offered help with formulating an efficient system to comply with the intent of SB 861 and other port funding laws and regulations and indicated that they were available for contact and negotiation with all port authorities in Missouri. After receiving testimony and consulting with these agencies, the subcommittee was able to formulate a solution to the funding issue.

II. Recommendations

The committee recommends that port authorities, DED, DOR, and the Office of the Treasurer, use the following sequential thirteen step process in order to ensure that the Port Authority AIM Zone Fund is properly implemented:

- (1) A port authority board will establish an AIM zone by resolution under section 68.075 or other authorizing law;
- (2) The port authority will send a "Notice of Intent" to the DOR regarding formation of the AIM zone;
- (3) The port authority will send a copy of the "Notice of Intent" to the DED;
- (4) The port authority will collect data from its AIM zone project and submit such data to the DED for use in establishment of a base employment rate in the zone prior to any new job creation;
- (5) The port authority will commence with any redevelopment or development within the AIM zone under the authority of existing law;
- (6) The Board of Commissioners for the port authority will certify by resolution the number of new jobs created in the AIM zone and eligible for funding;
- (7) The Board of Commissioners for the port authority will provide documentation to DED that verifies the number of new jobs created and certified by the board;
- (8) DED will verify the number of new jobs and transmit that information to DOR;
- (9) Any company with new jobs in an AIM zone, will submit form MO-AIM (MO-941) to the DOR using the same frequency that is used to file Employer's Return of Income Tax Withheld;
- (10) DOR will send the requisite 50% of tax withholds to the Port Authority AIM zone fund;
- (11) The Office of Administration will receive a request for funds from a port authority and then send a warrant to the Missouri Treasurer's Office;
- (12) The Missouri Treasurer's Office will issue a check to the port authority from the AIM zone fund;
- (13) The port authority will approve projects, disperse monies in the fund, and submit an annual budget to DED showing collected funds and explaining how the money was spent. DED approval is not required for port authority expenditures.

The committee also recommends that the DED, DOR, Office of the Treasurer, and other state agencies refrain from rulemaking in this area as the statutory authority for the AIM zone funding process enacted in SB 861 does not grant authority to promulgate rules.

The committee also recommends that the House budget committee act to place a line item in the budget clarifying the authority of the Missouri Treasurer's Office to disperse funds from the AIM zone fund to the port authorities.

III. Conclusion

In order for port authorities to take full advantage of the newly authorized AIM zones, it is imperative that the funding and reimbursement procedures function in an efficient manner. The recommendations in this report should help to ensure that proper funding is distributed in accordance with existing law. Missouri is especially well situated for economic development projects in port areas and it is essential that the general assembly ensure that existing economic development tools are utilized to their full potential.